

FILED
NOV -7 AM 10:19
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SCOTT N. SCHOOLS (SCSBN 9990)
United States Attorney
THOMAS MOORE (ASBN 4305-O78T)
Assistant United States Attorney
Chief, Tax Division
DAVID L. DENIER (CSBN 95024)
Assistant United States Attorney
9th Floor Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7000
Fax: (415) 436-6748

Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**UNITED STATES OF AMERICA and
JOHN MYERS, Revenue Officer,**

Petitioners,

v.

PHILIP BEITPOULICE,

Respondent.

NO.

**VERIFIED PETITION TO
ENFORCE INTERNAL
REVENUE SERVICE SUMMONS**

MEJ

Petitioners, the **UNITED STATES OF AMERICA** and its Revenue Officer, **JOHN MYERS**, allege and petition as follows:

1. This proceeding is brought and this Court has jurisdiction hereof under Sections 7402(b) and 7604(a) of the Internal Revenue Code (26 U.S.C. §§ 7402 and 7604).

2. Petitioner **JOHN MYERS** is and at all times mentioned herein was an employee and officer of the Internal Revenue Service of the United States Department of the Treasury authorized by the Secretary of the Treasury to perform the duties and take the actions described in Sections 7602 and 7603 of the Internal Revenue Code (26 U.S.C. §§ 7602 and 7603), under Treasury Regulations §§ 301.7602-1 and 301.7603-1 (26 C.F.R. §§ 301.7602-1 and 301.7603-1).

3. Petitioner **JOHN MYERS** is and at all times mentioned herein was attempting in the course of authorized duties to ascertain the assets and liabilities of **PHILIP BEITPOULICE**

1 in order to prepare a Collection Information Statement relative to the collection of certain unpaid
2 tax liabilities of **PHILIP BEITPOULICE**.

3 4. Petitioner **JOHN MYERS** is and at all times herein was attempting in the course
4 of authorized duties to have respondent produce for inspection, examination and copying by
5 petitioner certain records possessed by respondent which are relevant and material to his attempt
6 to ascertain the assets and liabilities of **PHILIP BEITPOULICE**, for purposes of preparing a
7 Collection Information Statement.

8 5. Respondent **PHILIP BEITPOULICE**'s last known address is 7184 Glenview
9 Drive, San Jose, CA 95120, which is within the venue of this Court.

10 6. Petitioner **JOHN MYERS** is informed and believes that said respondent is in
11 possession and control of records, paper and other data regarding income, assets and liabilities,
12 and other matters covered by said petitioner's inquiry and to which petitioners do not otherwise
13 have access, possession, or control.

14 7. On July 2, 2007, in accordance with law, petitioner **JOHN MYERS** served a
15 summons on respondent **PHILIP BEITPOULICE** in respect to the subject matter described in
16 paragraphs 3, 4, and 6 above, by leaving an attested copy of the summons at the last and usual
17 place of abode of the respondent **PHILIP BEITPOULICE**. The requirements of said summons
18 are self-explanatory, and a true copy thereof is attached hereto as Exhibit A and is hereby
19 incorporated by reference as a part of this petition.

20 8. The items sought by the summons described in paragraph 7 above are relevant to
21 and can reasonably be expected to assist in the preparation of the Collection Information
22 Statement for **PHILIP BEITPOULICE**. It was and now is essential to completion of
23 petitioner's inquiry regarding the preparation of the Collection Information Statement for
24 **PHILIP BEITPOULICE** that respondent produce the items demanded by said summons.

25 9. The respondent did not appear on July 24, 2007, as requested in the summons.

26 10. By letter dated September 14, 2007, respondent **PHILIP BEITPOULICE** was
27 provided with another opportunity to comply by appearing for an appointment with petitioner
28 **JOHN MYERS** on October 1, 2007. See Exhibit B.

11. As of the date of this petition, the respondent has failed to comply with the summons.

12. All administrative steps required by the Internal Revenue Code for issuance of the summons have been taken.

13. There has been no referral to the Department of Justice for criminal prosecution of the matters described in the summons.

WHEREFORE, having stated in full their petition against the respondent, petitioners pray for enforcement of the subject summons as alleged and set forth above, as follows:

A. That the named respondent herein be ordered to appear and show cause before this Court, if any, why respondent should not be compelled by this Court under 26 U.S.C. § 7604(a) to give such testimony and to produce such items as are required in the herein above-described summons;

B. That respondent be ordered by the Court to appear before the petitioner **JOHN MYERS** or any other designated agent, at a time and place directed by the Court and then and there give such testimony and produce such items as is required by the summons; and

C. That the Court grant the petitioner **UNITED STATES OF AMERICA** its costs in this proceeding and such other and further relief as may be necessary and proper.

SCOTT N. SCHOOLS
United States Attorney



DAVID L. DENIER
Assistant United States Attorney
Tax Division



Summons

In the matter of Philip Beitpoullice, 7184 Glenview Drive, San Jose, CA 95120

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed - California Area

Periods: 1997, 2000, 2001, 2002, 2004, 2005

The Commissioner of Internal Revenue

To: PHILIP BEITPOULICE

At: 7184 GLENVIEW DRIVE, SAN JOSE, CA 95120

You are hereby summoned and required to appear before J. Myers M/S 5115, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession and control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for the period JANUARY 1, 2007 to JUNE 30, 2007, regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of the taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

55 South Market Street, San Jose, CA 95113 408 817-6446

Place and time for appearance at 55 South Market Street, San Jose, CA 95113



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 2039(Rev. 12-2001)
Catalog Number 21405J

on the 24TH day of JULY, 2007 at 10 o'clock A m.

Issued under authority of the Internal Revenue Code this 2 day of July, 2007

[Signature]
Signature of Issuing Officer

Revenue Officer
Title

[Signature]
Signature of Approving Officer (if applicable)

GROUP MANAGER
Title

EXHIBIT-A

Original -- to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

7/2/07

Time

3:12 PM

**How
Summons
Was
Served**

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): _____
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: _____

Signature

[Handwritten Signature]

Title

Revenue Officer

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to

determine whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____

Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

**How
Notice
Was
Given**

- | | |
|---|--|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. | <input type="checkbox"/> I gave notice by handing it to the noticee. |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any): _____ | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. |
| | <input type="checkbox"/> No notice is required. |

Signature

Title

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF CHIEF COUNSEL
SMALL BUSINESS/SELF-EMPLOYED DIVISION COUNSEL
55 SOUTH MARKET STREET, SUITE 505
SAN JOSE, CA 95113
(408) 817-4650
FAX (408) 817-4651

SEP 14 2007

Philip Beitpoulice
7184 Glenview Drive
San Jose, CA 95120

Dear Mr. Beitpoulice:

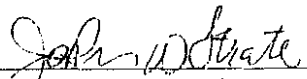
Our office represents the Area Director of the Internal Revenue Service. We have been informed by the Area Director that you have not fully complied with the summons served upon you on July 2, 2007, requiring you to appear and produce documents.

Legal proceedings may be brought against you in the United States District Court for not complying with the summons. In order to give you a final opportunity to comply, we have scheduled an appointment at the time and date given on page two. Failure to appear at the appointment will be deemed an intention not to comply with the summons. Please bring all of the information and documents specified in the summons.

If you have any questions, please contact Revenue Officer John Myer at the address or telephone number shown.

Sincerely,

JEFFREY L. HEINKEL
Associate Area Counsel (SBSE)

By: 
JOHN W. STRATE
Attorney (SBSE)

cc: John Myer, HQ 5116

EXHIBIT B

page 2

Revenue Officer:

Name: John Myer

Phone: (408) 817-6446

Appointment

Date: October 1, 2007

Time: 10:00 a.m.

Place: 55 South Market Street

Suite 600

San Jose, CA 95113

VERIFICATION

I, **JOHN MYERS**, pursuant to 28 U.S.C. § 1746, declare and state as follows:

I am a duly employed Revenue Officer in the San Jose, California office of the Internal Revenue Service of the United States Treasury Department. I am one of the petitioners making the foregoing petition. I have read and know the entire contents of the foregoing petition, and all statements of fact contained in said petition are true to the best of my own personal knowledge and recollection, and as to those facts stated upon information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/2/2007 at San Jose, California.


JOHN MYERS